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RICHARD L. CATANIA, ESQ.  
SCULLY, SCOTT, MURPHY AND PRESSER  
400 Garden City Plaza  
Garden City, NY 11530

EXAMINER

MOORE, JAMES K

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/827,274

Applicant(s)

BASSON ET AL.

Examiner

James K Moore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: in line 5, "signals" should be changed to "signal". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 16-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation. *United States v. Telectronics, Inc.*, 857 F.2d 778, 785, 8 USPQ2d 1217, 1223 (Fed. Cir. 1988). Claim 16 is directed to "[a] program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps," wherein the method steps comprise "transmitting a cellular/radio signal[s] from the source" and "using the

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transceiver on the second mobile object to receive the signal directly from the source and to transmit the signal to the transceiver of the first mobile object.”

The examiner acknowledges that it is known in the art how to make a program storage device, e.g., memory, readable by a machine, e.g., a microprocessor, which includes a program of instructions executable by the machine to perform method steps. It is also known in the art how to create executable instructions in a first program storage device in a wireless base station for transmitting a cellular/radio signal, and how to create executable instructions in a second program storage device in a transceiver for receiving the signal from the source. However, what is not known in the art and not disclosed in the specification is how a single program storage device can contain instructions both for transmitting the cellular/radio signal from a source, and for receiving the signal at a mobile object.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation "the short distances" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 7-10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Logsdon et al. (U.S. Patent No. 5,890,054).

Regarding claim 1, Logsdon discloses a method of forming a virtual network comprising providing each of a plurality of mobile objects with a transceiver (mobile device 124), transmitting a cellular/radio signal from a source (base station 108), moving a first mobile object into a location where the transceiver of the first mobile object (124a) does not receive the signal directly from the source, locating a second mobile object in a position where the transceiver of the second mobile object (124c) receives the signal directly from the source, and using the transceiver on the second mobile object to receive the signal directly from the source and to transmit the signal to the transceiver of the first mobile object. See col. 4, lines 58-65; col. 5, lines 17-58.

Regarding claim 2, Logsdon discloses all of the limitations of claim 1, and also discloses that the method comprises providing each of the mobile objects with a sensor to determine when the transceivers of others of the mobile objects are not able to receive the cellular/radio signal directly from the source. See col. 5, lines 25-39. Logsdon also discloses that when the sensor of one of the mobile objects determines

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that the transceiver of another of the mobile objects is not able to receive the signals directly from the source, the sensor of the mobile object activates its transceiver to transmit the signal to the transceiver of the other of the mobile objects. See col. 5, lines 40-58.

Regarding claim 3, Logsdon discloses all of the limitations of claim 1, and it is inherent that the mobile objects may be cars or people. See col. 4, lines 3-14.

Regarding claim 7, Logsdon discloses all of the limitations of claim 1, and also discloses that the method comprises determining whether the signal has reached the final user before sending the signal further. See col. 6, lines 6-18.

Regarding claim 8, Logsdon discloses a virtual network for transmitting cellular/radio signals comprising a plurality of transceivers (124) and a plurality of mobile objects. Each of the mobile objects has one of the transceivers. The network also comprises a source (base station 108) for transmitting cellular/radio signals. A first mobile object is in a location where the transceiver (124a) of the first mobile object does not have access to the signals directly from the source, and a second of the mobile objects is in a location where the transceiver (124c) of the second mobile object receives the signals directly from the source. The transceiver of the second mobile object transmits the signals to the transceiver of the first mobile object.

Regarding claim 9, Logsdon discloses all of the limitations of claim 8, and also discloses that each of the mobile objects is provided with a sensor to determine when the transceivers of other mobile objects are not able to receive the cellular/radio signals directly from the source, and that when the sensor of one of the mobile objects

determines that the transceiver of another mobile object is not able to receive the signals directly from the source, the sensor activates the transceiver of the mobile object to transmit the signal to the transceiver of the other mobile object. See col. 5, lines 25-58.

Regarding claim 10, Logsdon discloses all of the limitations of claim 8, and it is inherent that the mobile objects may be cars or people. See col. 4, lines 3-14.

Regarding claim 13, Logsdon discloses all of the limitations of claim 8, and it is inherent that the cellular telephones comprise chips for transmitting signals between cellular telephones.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logsdon et al. in view of Johnson et al. (U.S. Patent No. 4,977,589).

Regarding claim 4, Logsdon discloses all of the limitations of claim 1, and also discloses that the method comprises verifying whether the signal is an emergency signal. See col. 6, lines 6-18. Logsdon does not disclose that the method comprises giving a preferred treatment for the emergency signal, comprising assigning a most

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available frequency band for the emergency signal, and stopping transmitting other signals through this band. However, Johnson teaches a signaling method which gives a preferred treatment for an emergency signal, which comprises assigning a most available frequency band for the emergency signal, and stopping transmitting other signals through this band. Johnson discloses that the method is used to reduce or prevent the loss of life or damage of property. See col. 3, lines 17-31. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Logsdon with Johnson, such that the method comprises giving a preferred treatment for the emergency signal, comprising assigning a most available frequency band for the emergency signal, and stopping transmitting other signals through this band, in order to reduce or prevent the loss of life or damage of property.

10. Claims 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logsdon et al. in view of well known prior art.

Regarding claims 6 and 11, Logsdon discloses all of the limitations of claims 1 and 8, but does not disclose that the location where the first mobile object transceiver does not have access to the signal directly from the source is either in a tunnel, under a bridge, or in a subway. However, the examiner takes Official Notice that it is well known in the art that a transceiver may not have direct access to a signal in any of these locations. It would have been obvious to one of ordinary skill in the art at the time of the invention to use Logsdon invention in any of these locations, in order to provide the first mobile object transceiver with access to the base station.

Regarding claim 12, Logsdon discloses all of the limitations of claim 8, but does not disclose that a chip can be embedded in EZ-pass for transmitting cellular signals between cars. However, the examiner takes Official Notice that it is well known in the art that chips are embedded in EZ-pass tags for transmitting cellular signals between cars in order to electronically deduct tolls from prepaid toll accounts and reduce traffic congestion at toll booths. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Logsdon, such that a chip is embedded in EZ-pass for transmitting cellular signals between cars, in order to electronically deduct tolls from prepaid toll accounts and reduce traffic congestion at toll booths.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Logsdon et al. in view of Hanchett (U.S. Patent No. 5,396,429).

Regarding claim 14, Logsdon discloses all of the limitations of claim 8, but does not disclose that a local network of transmission devices is used to count the density of cars. However, Hanchett discloses a traffic information system that comprises a local network of transmission devices which are used to count the density of cars. See col. 6, lines 35-48. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Logsdon with Hanchett, such that a local network of transmission devices is used to count the density of cars, in order to provide traffic information to commuters.

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***Allowable Subject Matter***

12. Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Moore, whose telephone number is (703) 308-6042. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (703) 305-4379.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ken Moore

4/29/04

JKM

*Marsha D Banks-Harold*  
MARSHA D. BANKS-HAROLD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600